IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPELLANT: Dirk Weseloh   CONFIRMATION NO. 4405

SERIAL NO.:   10/807,691   GROUP ART UNIT: 2155

FILED: March 24, 2004   EXAMINER: Michael Won Young

TITLE: METHOD FOR REMOTE MAINTENANCE OF TECHNICAL DEVICES

MAIL STOP APPEAL BRIEF-PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPELLANT'S APPEAL BRIEF

S I R:

In accordance with the provisions of 37 C.F.R. §41.37, and the Notice of Appeal being filed concurrently herewith, Appellant files this Appeal Brief in support of the appeal from the final rejection of the Examiner of claims 9-12, 14, 15 and 17 in the final Office Action of May 23, 2008 reaffirmed in the Advisory Action of September 24, 2008. Those claims are set forth in the Amendment After Final filed September 10, 2008 and in the Claims Appendix attached herewith.

REAL PARTY OF INTEREST:

The real party of interest is the assignee, Siemens AG of Munich, Germany.

RELATED APPEALS AND INTERFERENCES:

There are no related appeals and no related interferences.

STATUS OF CLAIMS:

Claims being appealed from are claims 9-12, 14, 15, and 17. Claims 1-8, 13, 16 are cancelled. All of the non-cancelled claims are being appealed from and are set forth in the CLAIMS APPENDIX attached herewith.

STATUS OF AMENDMENTS:

The Amendment After Final filed September 10, 2008 was entered in the Advisory Action of September 24, 2008.

SUMMARY OF CLAIMED SUBJECT MATTER:

A concise explanation of the subject matter defined in each of the independent claims involved in this Appeal, referring to the specification by page and line number, and to reference numbers in the drawings, is set forth below. There are no means-plus-function elements in the claims. A DRAWING APPENDIX is attached herewith for convenience.

Independent Claim 9

Claim 9 relates to a method for remote maintenance of a technical device (Fig. 3-55) by a maintenance technician by a maintenance computer (Fig. 3-51). (p. 7, l. 4-6).

A remote data connection (Fig. 3-53) is established between the maintenance computer (Fig. 3-51) and the technical device (Fig. 3-55) to be maintained (Fig. 1-3; p. 7, l. 9-10). An electronic access information describing the scope of intended access to data stored in the technical device (Fig. 3-55) is transmitted from the maintenance computer (Fig. 3-51) to the technical device to be maintained, the data being understood to be confidential by an operating personnel for the technical device (Fig. 1-7, 13; p. 7, l. 23-24; p. 7, l. 27 – p. 8, l. 2).

An electronic identifier identifying the maintenance technician is transmitted from the maintenance computer (Fig. 3-51) to the technical device (Fig. 3-55) to be maintained (Fig. 1-12; p. 8, l. 23-26).

An approval by the operating personnel of an access to the technical device (Fig. 3-55) is determined dependent on the access information describing the scope of the intended access to the data and the identifier (Fig. 1-13, 15; p. 8, l. 27 – p. 9, l 1; p. 9, l. 11-12).

An electronic authentication information is generated by the technical device (Fig. 3-55) dependent on the determination of the approval (Fig. 1-17; p. 9, l. 19-22).

The identification information is transmitted from the technical device (Fig. 3-55) to the maintenance computer (Fig. 3-51) (Fig. 1-17; p. 9, l. 19-22).

With the maintenance computer (Fig. 1-51), the remote maintenance of the technical device (Fig. 3-55) is conducted, the maintenance computer receiving from the technical device confidential data which was authorized based on the approval (Fig. 1-19; p. 6, l. 3-12; p. 9, l. 1-3; p. 10, l. 3-7).

Electronic data is automatically deleted from the maintenance computer (Fig. 3-51) that has been transmitted from the technical device (Fig. 3-55) to the maintenance computer and stored in the maintenance computer dependent on termination of the access (Fig. 2-24; p. 11, l. 13-17).

Independent Claim 15

Claim 15 relates to a method for remote maintenance of a technical device (Fig. 3-55) by a maintenance technician by a maintenance computer (Fig. 3-51) (p. 7, l. 4-6).

A remote data connection (Fig. 3-53) is established between a maintenance computer (Fig. 3-51) and the technical device (Fig. 3-55) to be maintained (Fig. 1-3; p. 7, l. 9-10). An electronic access information describing the scope of intended access to data stored in the technical device (Fig. 3-55) is transmitted from the

maintenance computer (Fig. 3-51) to the technical device to be maintained, the data being understood to be access sensitive by an operating personnel for the technical device (Fig. 1-7, 13; p. 7, l. 23-24; p. 7, l. 27 – p. 8, l. 2).

An electronic identifier identifying the maintenance technician is transmitted from the maintenance computer (Fig. 3-51) to the technical device (Fig. 3-55) to be maintained (Fig. 1-12; p. 8, l. 23-26).

An approval by the operating personnel of an access to the technical device (Fig. 3-55) is determined dependent on the access information describing the scope of the intended access to the data and the identifier (Fig. 1-13, 15; p. 8, l. 27 – p. 9, l. 1; p. 9, l. 11-12).

An electronic authentication information is generated by the technical device (Fig. 3-55) dependent on the determination of the approval (Fig. 1-17; p. 9, l. 19-22).

The identification information is transmitted to the maintenance computer (Fig. 3-51) (Fig. 1-17; p. 9, l. 19-22).

With the maintenance computer (Fig. 1-51), the remote maintenance of the technical device (Fig. 3-55) is conducted, the maintenance computer receiving from the technical device data considered to be access sensitive which was authorized based on the approval (Fig. 1-19; p. 6, l. 3-12; p. 9, l. 1-3; p. 10, l. 3-7).

Electronic data is automatically deleted from the maintenance computer (Fig. 3-51) that has been transmitted from the technical device (Fig. 3-55) to the maintenance computer and stored in the maintenance computer dependent on termination of the access (Fig. 2-24; p. 11, l. 13-17).

Independent Claim 17

A computer-readable medium comprises a computer program for remote maintenance of a technical device (Fig. 3-55) by a maintenance technician by a maintenance computer (Fig. 3-51) having the computer program therein (p. 7, l. 4-6). The program then performs the following steps.

A remote data connection (Fig. 3-53) is established between the maintenance computer (Fig. 3-51) and the technical device (Fig. 3-55) to be maintained (Fig. 1-3; p. 7, l. 9-10). An electronic access information describing the scope of intended access to data stored in the technical device (Fig. 3-55) is transmitted from the maintenance computer (Fig. 3-51) to the technical device to be maintained, the data being understood to be confidential by an operating personnel for the technical device (Fig. 1-7, 13; p. 7, l. 23-24; p. 7, l. 27 – p. 8, l. 2).

An electronic identifier identifying the maintenance technician is transmitted from the maintenance computer (Fig. 3-51) to the technical device (Fig. 3-55) to be maintained (Fig. 1-12; p. 8, l. 23-26).

An approval by the operating personnel of an access to the technical device (Fig. 3-55) is determined dependent on the access information describing the scope of the intended access to the data and the identifier (Fig. 1-13, 15; p. 8, l. 27 – p. 9, l. 1; p. 9, l. 11-12).

An electronic authentication information is generated by the technical device (Fig. 3-55) dependent on the determination of the approval (Fig. 1-17; p. 9, l. 19-22).

The identification information is transmitted from the technical device (Fig. 3-55) to the maintenance computer (Fig. 3-51) (Fig. 1-17; p. 9, l. 19-22).

With the maintenance computer (Fig. 1-51), the remote maintenance of the technical device (Fig. 3-55) is conducted, the maintenance computer receiving from the technical device confidential data which was authorized based on the approval (Fig. 1-19; p. 6, l. 3-12; p. 9, l. 1-3; p. 10, l. 3-7).

Electronic data is automatically deleted from the maintenance computer (Fig. 3-51) that has been transmitted from the technical device (Fig. 3-55) to the maintenance computer and stored in the maintenance computer dependent on termination of the access (Fig. 2-24; p. 11, l. 13-17).

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL:

1.   Whether claims 9-12, 14, 15, and 17 are obvious under 35 U.S.C. §103 based on Azieres further in view of Othmer. The 35 U.S.C. §102 rejection of previous claims 9-12, 14, and 15 is considered moot in view of the incorporation of the now cancelled dependent claim 13 language into claims 9, 15, and 17.

ARGUMENT:

Manner in Which Claim 9 Distinguishes Over the Combination of Azieres in View of Othmer.

9. A method for remote maintenance of a technical device by a maintenance technician by a maintenance computer, comprising the steps of:

establishing a remote data connection between the maintenance computer and the technical device to be maintained;

transmitting electronic access information describing a scope of intended access to data stored in the technical device from the maintenance computer to the technical device to be maintained, said data being understood to be confidential by an operating personnel for the technical device;

transmitting an electronic identifier identifying the maintenance technician from the maintenance computer to the technical device to be maintained;

determining an approval by said operating personnel of an access to the technical device dependent on the access information describing the scope of the intended access to the data and the identifier;

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generating electronic authentication information by the technical device dependent on the determination of the approval;

transmitting said authentication information from the technical device to the maintenance computer;

with said maintenance computer, conducting said remote maintenance of said technical device, said maintenance computer receiving from said technical device confidential data which was authorized based on said approval; and

<u>automatically deleting electronic data from the maintenance computer that has been transmitted from the technical device to the maintenance computer and stored in the maintenance computer dependent on termination of the access.</u>

Claim 9 distinguishes based on the underlined language above combined with the remainder of the claim.

In the final Office Action of May 23, 2008, the Examiner agrees at page 8, second paragraph that:

> "Azieres does not explicitly teach further comprising the step of automatically deleting electronic data that has been transmitted from the technical device to the maintenance computer and stored in the maintenance computer from the maintenance computer by the maintenance computer, dependent on termination of the access".

For the above deficiency of the primary reference Azieres, the Examiner cites Othmer as automatically deleting electronic data transmitted from the technical device to the maintenance computer and stored in the maintenance computer from the maintenance computer by the maintenance computer, dependent on termination of the access, and relies on column 14, lines 13-16 of Othmer. This rejection is reaffirmed in the Advisory Action dated September 24, 2008 at point 13 referring to the continuation sheet.

This rejection based on obviousness is untenable since Othmer teaches directly away from Applicant's invention. Therefore a combination of Othmer and

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Azieres would not be obvious. In Othmer, column 14, lines 13-16, a server (which is monitoring client computers and is thus the "maintenance computer") sends a message to the client computer (the "technical device") instructing the client machine to delete its locally stored copy of the dynamic black box and to end the communication session. These client technical devices are shown in Fig. 8 at 70 and in Fig. 2 at 64. Significantly the server in Fig. 8 is shown at 128 and in Fig. 2 at 52. The server is the machine which is doing the monitoring of the client computers. Thus the data being deleted is *in the machines being monitored,* not in the server which is conducting the monitoring. Claim 9, however, relates to the deleting of the data, not in the machines being monitored, but in the maintenance computer, in other words in the computer which is doing the monitoring. Othmer thus teaches directly away and a combination of the primary reference does not render claim 9 obvious.

The Examiner argues in the Advisory Action that Othmer explicitly teaches deleting data that has been stored when the access is terminated, and that such teaching would obviously be incorporated at the maintenance computer of Azieres. However, this reasoning is faulty because Othmer explicitly teaches deleting data, not in the maintenance computer, but in the technical device. Therefore, it is not logical that one skilled in the, art based on this teaching, would delete data in the maintenance computer.

Dependent claims 10-12 and 14 depending from claim 9 may be decided by the Board based on their decision of claim 9.

Manner in Which Claim 15 Distinguishes over the Combination of Azieres in View of Othmer.

15. A method for remote maintenance of a technical device by a maintenance technician by a maintenance computer, comprising the steps of:

establishing a remote data connection between the maintenance computer and the technical device to be maintained;

transmitting electronic access information describing a scope of intended access to data stored in the technical device from the maintenance computer to the technical device to be maintained, said data being understood to be access sensitive by an operating personnel for the technical device;

transmitting an electronic identifier identifying the maintenance technician from the maintenance computer to the technical device to be maintained;

determining an approval by said operating personnel of an access to the technical device dependent on the access information describing the scope of the intended access to the data and the identifier;

generating electronic authentication information dependent on the determination of the approval;

transmitting said authentication information to the maintenance computer; and

with said maintenance computer, conducting said remote maintenance of said technical device, said maintenance computer receiving from said technical device data considered to be access sensitive which was authorized based on said approval; and

automatically deleting electronic data in the maintenance computer that has been transmitted from the technical device to the maintenance computer and stored in the maintenance computer dependent on termination of the access.

Independent claim 15 distinguishes for the same reasons noted with respect to claim 9 since the last paragraph of claim 15 is the same as the last paragraph of claim 9.

Manner in Which Claim 17 Distinguishes the Combination of Azieres with Othmer

17. A computer-readable medium comprising a computer program for remote maintenance of a technical device by a maintenance technician by a maintenance computer having said computer program, said program performing the steps of:

establishing a remote data connection between the maintenance computer and the technical device to be maintained;

transmitting electronic access information describing a scope of intended access to data stored in the technical device from the maintenance computer to the technical device to be maintained, said data being understood to be confidential by an operating personnel for the technical device;

transmitting an electronic identifier identifying the maintenance technician from the maintenance computer to the technical device to be maintained;

receiving approval by said operating personnel of an access to the technical device dependent on the access information describing the scope of the intended access to the data and the identifier;

receiving electronic authentication information generated by the technical device dependent on the determination of the approval;

receiving said authentication information from the technical device; and

conducting said remote maintenance of said technical device, said maintenance computer receiving from said technical device confidential data which was authorized based on said approval; and
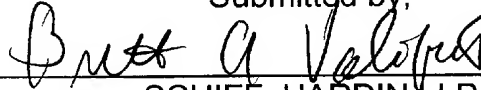
automatically deleting electronic data in the maintenance computer that has been transmitted from the technical device to the maintenance computer and stored in the maintenance computer dependent on termination of the access.

Independent Claim 17 distinguishes for the same reasons noted with reasons noted with respect to claim 9 since the last paragraph of claim 17 is the same as the last paragraph of claim 9.

This Appeal Brief is accompanied by electronic payment for the requisite fee in the amount of $510.00.

This Appeal Brief is also accompanied by a Request for One Month Extension of Time, together with electronic payment for the requisite extension fee.

Submitted by,

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CLAIMS APPENDIX

9. A method for remote maintenance of a technical device by a maintenance technician by a maintenance computer, comprising the steps of:

establishing a remote data connection between the maintenance computer and the technical device to be maintained;

transmitting electronic access information describing a scope of intended access to data stored in the technical device from the maintenance computer to the technical device to be maintained, said data being understood to be confidential by an operating personnel for the technical device;

transmitting an electronic identifier identifying the maintenance technician from the maintenance computer to the technical device to be maintained;

determining an approval by said operating personnel of an access to the technical device dependent on the access information describing the scope of the intended access to the data and the identifier;

generating electronic authentication information by the technical device dependent on the determination of the approval;

transmitting said authentication information from the technical device to the maintenance computer;

with said maintenance computer, conducting said remote maintenance of said technical device, said maintenance computer receiving from said technical device confidential data which was authorized based on said approval; and

automatically deleting electronic data from the maintenance computer that has been transmitted from the technical device to the maintenance computer and stored in the maintenance computer dependent on termination of the access.

10. A method according to claim 9, further comprising the step of:

printing information by the technical device dependent on the authentication information.

11. A method according to claim 9, further comprising the step of:

transmitting electronic termination information dependent on a termination of the access from the maintenance computer to the technical device.

12. A method according to claim 9, further comprising the step of:

transmitting electronic documentation of accesses effected by the maintenance computer from the maintenance computer to the technical device.

14. A method according to claim 9, further comprising the step of:

automatically determining an extent of an intended data access during the remote maintenance.

15. A method for remote maintenance of a technical device by a maintenance technician by a maintenance computer, comprising the steps of:

establishing a remote data connection between the maintenance computer and the technical device to be maintained;

transmitting electronic access information describing a scope of intended access to data stored in the technical device from the maintenance computer to the technical device to be maintained, said data being understood to be access sensitive by an operating personnel for the technical device;

transmitting an electronic identifier identifying the maintenance technician from the maintenance computer to the technical device to be maintained;

determining an approval by said operating personnel of an access to the technical device dependent on the access information describing the scope of the intended access to the data and the identifier;

generating electronic authentication information dependent on the determination of the approval;

transmitting said authentication information to the maintenance computer; and

with said maintenance computer, conducting said remote maintenance of said technical device, said maintenance computer receiving from said technical device data considered to be access sensitive which was authorized based on said approval; and

automatically deleting electronic data in the maintenance computer that has been transmitted from the technical device to the maintenance computer and stored in the maintenance computer dependent on termination of the access.

17. A computer-readable medium comprising a computer program for remote maintenance of a technical device by a maintenance technician by a maintenance computer having said computer program, said program performing the steps of:

establishing a remote data connection between the maintenance computer and the technical device to be maintained;

transmitting electronic access information describing a scope of intended access to data stored in the technical device from the maintenance computer to the technical device to be maintained, said data being understood to be confidential by an operating personnel for the technical device;

transmitting an electronic identifier identifying the maintenance technician from the maintenance computer to the technical device to be maintained;

receiving approval by said operating personnel of an access to the technical device dependent on the access information describing the scope of the intended access to the data and the identifier;

receiving electronic authentication information generated by the technical device dependent on the determination of the approval;

receiving said authentication information from the technical device; and

conducting said remote maintenance of said technical device, said maintenance computer receiving from said technical device confidential data which was authorized based on said approval; and

automatically deleting electronic data in the maintenance computer that has been transmitted from the technical device to the maintenance computer and stored in the maintenance computer dependent on termination of the access.

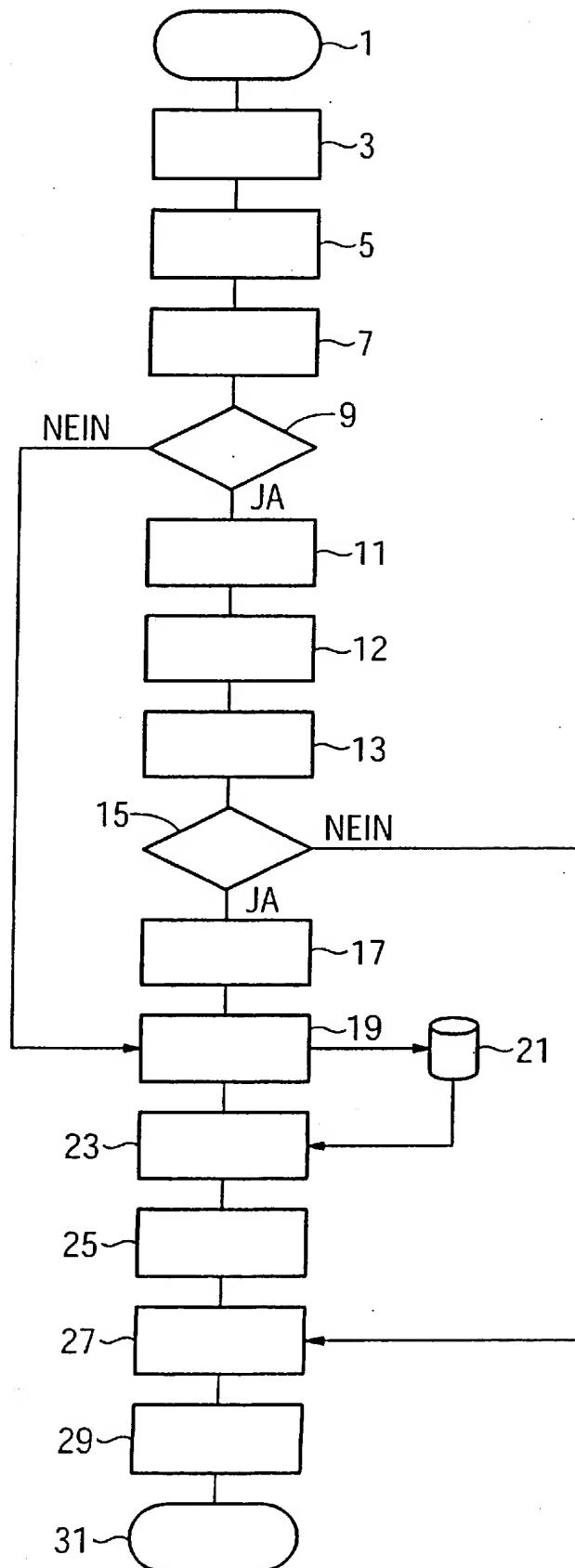## DRAWINGS APPENDIX
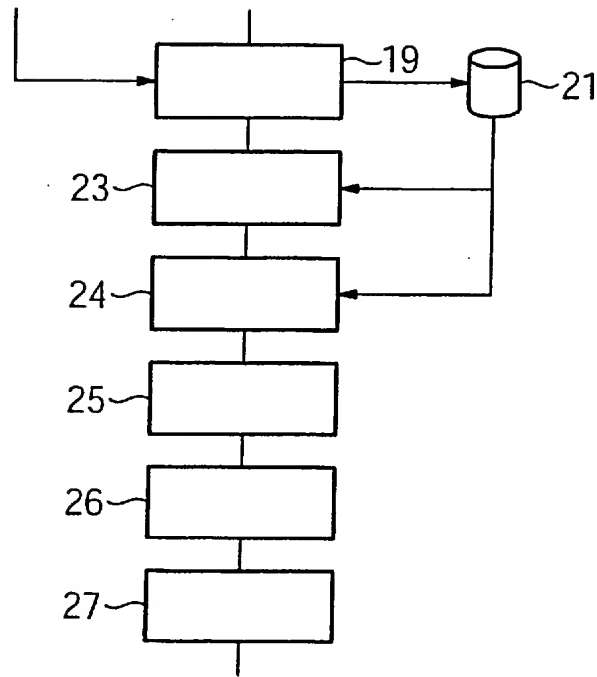
Figure 1

Figure 2

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FIG 1

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FIG 2

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FIG 3

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